

**38 CFR Part 9****RIN 2900-AR24****Extension of Veterans' Group Life Insurance (VGLI) Application Periods in Response to the COVID-19 Public Health Emergency****AGENCY:** Department of Veterans Affairs.**ACTION:** Interim Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is issuing this interim final rule to extend the deadline for former members insured under Servicemembers' Group Life Insurance (SGLI) to apply for VGLI coverage following separation from service in order to address the inability of former members directly or indirectly affected by the 2019 Novel Coronavirus (COVID-19) public health emergency to purchase VGLI. This rule will be in effect until December 11, 2021.

DATES: This interim final rule is effective [insert date of publication in the FEDERAL REGISTER].

Comment date: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted through www.Regulations.gov or mailed to Director, VA Insurance Service (29), 5000 Wissahickon Avenue, Philadelphia, PA, 19144. Please note that due to circumstances associated with the COVID-19 pandemic, VA discourages the submission of comments by mail. Comments should indicate that they are submitted in response to "RIN 2900-AR24 Interim Final Rule – Extension of VGLI Application Periods in Response to the COVID-19 Public Health Emergency." Comments received will be available at [regulations.gov](https://www.regulations.gov) for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Paul Weaver, Department of Veterans Affairs Insurance Service (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842-2000, ext. 4263. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Section 1977 of title 38, United States Code, authorizes the VGLI program, which provides former members separating from service with the option of converting existing SGLI coverage into renewable, 5-year term group life insurance coverage in amounts ranging from \$10,000 to \$400,000 based upon the amount of SGLI coverage. See 38 U.S.C. 1967(a), 1968(b)(1)(A), 1977(a), (b). Section 9.2 of title 38, Code of Federal Regulations, provides the effective dates of VGLI coverage and application requirements. VGLI coverage may be granted if an application, the initial premium, and evidence of insurability are received within 1 year and 120 days following termination of duty. 38 CFR 9.2(c). Evidence of insurability is not required during the initial 240 days following termination of duty. *Id.*

On October 7, 2020, VA published a final rule in the Federal Register (85 FR 63208) that amended 38 CFR 9.2 by adding new paragraph (f)(1) to extend by 90 days the time periods under 38 CFR 9.2(c) during which former members may apply for VGLI. Thus, former members who submit a VGLI application and the initial premium within 330 days following separation from service will not be required to submit evidence of insurability. Former members who do not apply for VGLI within 330 days following separation from service may still receive VGLI coverage if they apply for the coverage within 1 year and 210 days following separation from service and submit the initial premium and evidence of insurability. The 90-day extensions for former members to apply for VGLI are in effect from June 11, 2020, through June 11, 2021. Between June 11, 2020 and March 31, 2021, 14,855 former members utilized these 90-day extensions to purchase VGLI coverage.

The rationale for applying the rule for one year was that VA is obligated to manage VGLI according to sound and accepted actuarial principles (see 38 U.S.C. 1977(c), (f), (g)), and that VA would be able to utilize this one-year time period to gather and analyze data on VGLI claims experience to determine if it would be actuarially sound to further extend the applicability date. VGLI is funded by premiums from insured Veterans, and VA has determined that current premium amounts that insured Veterans pay for VGLI coverage are sufficient to absorb the cost of any additional VGLI claims that would be paid due to VA extending that application deadline period for an additional six months. Considering the continuing challenges involved with obtaining necessary medical records brought about by the COVID-19 pandemic, and that VA has determined that it would be actuarially sound to extend VGLI application deadlines, VA will be extending the deadline for VGLI applications received between June 12, 2021 and December 11, 2021. This interim final rulemaking will continue to provide separating service members an additional 90 days to apply for VGLI during the COVID-19 pandemic and is intended to ease some of the financial consequences of the COVID-19 pandemic for former members, especially those with disabilities incurred while in service, since many of these former members would otherwise not qualify for a private commercial plan of insurance due to such disabilities.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for prior comment with respect to this rule and to make the rule effective upon publication. Pursuant to 5 U.S.C. 553(b)(B), the opportunity for advance public comment is not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules

issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

VA previously published an interim final rule on June 11, 2020 which expires on June 11, 2021. In this interim final rulemaking, we are extending the prior rulemaking by an additional six months. If the interim final rulemaking is not published prior to the expiration date, then there will be a gap in the application deadline extensions for those individuals applying for VGLI.

The need for this interim final rule was unanticipated because the data pertaining to COVID-19 was continuously evolving and VA had to evaluate data from an actuarial perspective to ensure that another extension of the application deadlines would not put upward pressure on VGLI premiums or otherwise negatively impact the financial stability of the program. The Secretary finds that it is impracticable to delay this regulation for the purpose of soliciting public comment because former members cannot receive VGLI coverage if they do not satisfy the application requirements within the deadlines established by 38 CFR 9.2(c). The VGLI statute does not authorize retroactive adjudication of applications for VGLI coverage, and former members who wish to apply for VGLI would be significantly harmed if these extensions lapse, since many former members choose to purchase VGLI because these former members are unable to qualify for private commercial plans of insurance coverage due to disabilities incurred while in service. Section 553(d) also requires a 30-day delayed effective date following publication of a rule, except for “(1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.” Pursuant to section 553(d)(1), the Secretary finds that this interim final rule should be effective immediately upon publication because this is a substantive rule which relieves restrictions, i.e., extends deadlines for VGLI

applications. Also, pursuant to section 553(d)(3), the Secretary finds that there is good cause to make the rule effective upon publication because of the impracticability of delaying implementation of the regulatory amendment, as discussed above.

For the foregoing reasons, the Secretary of Veterans Affairs is issuing this rule as an interim final rule with an immediate effective date. The Secretary of Veterans Affairs will consider and address comments that are received within 30 days of the date this interim final rule is published in the Federal Register.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The provisions contained in this interim final rulemaking are applicable to individual Veterans, and applications for VGLI, as submitted by such individuals, are specifically managed and processed within VA and

through Prudential Insurance Company of America, which is not considered to be a small entity. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This interim final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Paperwork Reduction Act

This interim final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

List of Subjects in 38 CFR Part 9

Life insurance, Military personnel, Veterans

Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, approved this document on May 24, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,
*Assistant Director,
Office of Regulation Policy & Management,
Office of the Secretary,
Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 9 as set forth below:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

1. The authority citation for part 9 continues to read as follows:

Authority: 38 U.S.C. 501, 1965-1980A, unless otherwise noted.

2. Section 9.2 is amended by revising paragraph (f)(2) to read as follows:

§ 9.2 Effective date; applications

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(f) * * *

(2) Paragraph (f)(1) of this section shall not apply to an application or initial premium received after December 11, 2021.

[FR Doc. 2021-12017 Filed: 6/8/2021 8:45 am; Publication Date: 6/9/2021]